IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Mat.Appeal.No. 366 of 2006()

OP.1082/2003 of FAMILY COURT, THIRUVALLA
.....

PETITIONER: IST RESPONDENT

SHAKTHIDHARAN NAIR,
S/O.RAMA PILLAI, MANGALAPALLIL HOUSE,
ARUVAPPULAM MURI AND VILLAGE, KONNI, ADOOR,
PRESENTLY RESIDING AT CHERUVAYALAYIL HOUSE,
ARUVAPPULAM MURI, KONNI.

BY ADV. SRI.BASANT BALAJI

RESPONDENTS: PETITIONER
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1. REMADEVI, D/O.JANAKI AMMA,
RETNAVILASOM HOUSE, AICHADU MURI,
KODUMON VILLAGE, ADOOR TALUK.

2. RADHA, PUTHUPPARAMBIL VEEDU,
ATACHACKAL P.O., KONNI,
PRESENTLY RESIDING AT CHERUVAYALATHIL HOUSE,
ARUVAPPULAM MURI AND VILLAGE, KONNI.

BY ADV. SRI. K.SHAJ
SRI.SAJJU.S
SRI.B.BALRAJ

THIS MATRIMONIAL APPEAL HAVING BEEN FINALLY HEARD ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

Kurian Joseph & T.R. Ramachandran Nair, JJ.

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all allegations contained therein. Learned counsel therefore pleaded that as sufficient opportunity was not given to adduce evidence, the judgment passed by the Family Court may be set aside and the matter may be remanded for fresh consideration.

4. Learned counsel for the respondents strongly opposed the said prayers. It is pointed out that at any rate, since there is a judgment allowing recovery of Rs.57,500/- and 17 sovereigns of gold ornaments, in case of remand the appellant should be directed to deposit a portion of the amount for payment to the first respondent.

5. Since the appellant had filed detailed objection disputing the prayers in the original petition, we find that it is only in the interest of justice that he is allowed a further opportunity to lead evidence in his support. Therefore, the judgment under appeal is set aside and the matter is remanded to the Family Court for fresh disposal in accordance with law, after allowing both parties to adduce evidence. The appellant is directed to pay a sum of Rs.2,500/- as costs to the first respondent through her counsel within two weeks from today, and memo will be produced before the Family Court.

The parties are directed to appear before the Family Court on 11.9.2007.

The appeal is disposed of in the above terms.

(Kurian Joseph, Judge.)

(T.R. Ramachandran Nair, Judge.)

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